

CLARKE COUNTY BOARD OF SUPERVISORS
June 15, 2004 Regular Meeting 9:00 a.m.
Board of Supervisors Meeting Room

At a meeting of the Board of Supervisors of Clarke County, Virginia, held in the Board of Supervisors' Meeting Room, Second Floor of the Circuit Courthouse, 102 N. Church Street, Berryville, Virginia on Tuesday, June 15, 2004.

Present

Chairman Staelin, Vice Chairman Hobert, Supervisor Dunning, Supervisor Byrd, Supervisor Weiss

Also Present

Ed Breslauer, Gary Hornbaker, Mike McCall, Eleanor Smalley, Gem Bingol, Chuck Johnston, Tom Judge, David L. Ash, Layla Wilder, Val Van Meter, Garren Shipley, and other citizens and members of the press.

Call To Order

Chairman Staelin called the meeting to order at 9:00 a.m.

Adoption of Agenda

Add Closed Session: Personnel, Acquisition of Property and Legal Matters.

Move School Board Discussion forward and place directly following the Citizen of the Year Award presentation by the Clarke County Litter and Recycling Committee.

Vice Chairman Hobert moved to adopt the agenda as modified.

The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Litter & Recycling Committee – Citizen of the Year Award

Erika Shriner, Litter and Recycling Committee Chair, appeared before the Board to present the first Citizen of the Year Award to Tom Commack. Mrs. Shriner commended Mr. Commack for his work with the schools raising awareness of recycling, as well as personally collecting the recyclables from County schools.

Chairman Staelin extended the Board's appreciation to Tom Commack, as well as Erika Shriner and the Litter and Recycling Committee members for their efforts.

School Board Discussion

Public Education Standards of Quality / Local Real Estate Property Tax Relief Fund Act

School Board members, Gary Hornbaker and Michael McCall, and Clarke County School Superintendent, Eleanor Smalley, appeared before the Board of Supervisors to address the additional funds provided to the County from the State under the Public Education Standards of Quality / Local Real Estate Property Tax Relief Fund Act. Gary Hornbaker, Buckmarsh District School Board Member, stated the School Board is very excited and concerned about the \$312,000 in additional money received. He referenced a letter by Dr. William Houck, School Board Chair, to John Staelin, Board of Supervisors Chair, dated June 14, 2004, wherein Dr. Houck requested that the entire \$312,000 be allocated to the schools. Mr. Hornbaker noted that the schools had needs and the School Board had made many tough decisions during the recent budget sessions. Mr. Hornbaker expressed appreciation for the difficult decisions that the Board of Supervisors must also make regarding budgets. He opined that Clarke County is falling behind other localities in salaries and health care costs. Mr. Hornbaker stated that the School Board had made no firm commitment or decision regarding how any additional funds would be spent rather they have taken the position of working with the Board of Supervisors to determine what portion of the \$312,000 would be made available to the schools. Michael McCall, Berryville District School Board Member, relayed that he had spoken with Tom Judge, Director – Joint Administrative Services, who had said that the funds fall within the resolution guidelines.

Vice Chairman Hobert referenced Dr. Houck's letter and expressed his appreciation for what the facility and staff have done so far and the difficulties they are facing recognizing the increase in health care premiums. Mr. Hobert stated that he wanted to hear what the School Board felt was the best way to spend the money. He said that he viewed the funds not as a one-time allocation but an on-going stream of income, which is potentially available for the next 20 years. He put forth that if this income were converted to debt services that the \$312,000 would equal about a \$5MM increase in borrowing power on the bond. Vice Chairman Hobert said that he was concerned that the School Board was not looking at the additional funds in a manner that would improve their ability to fund construction but were instead looking at it for funding to be used for operating expenses. He opined that he had thought it was a priority to fund the construction of the kind of schools that the School Board thinks are appropriate and stated that he would like to see this discussed at the School Board level. Gary Hornbaker said that he had urged fellow board members to look at the funding in the same manner as suggested by Vice Chairman Hobert. Mr. Hornbaker stated that he would like to see the money used as an investment for the construction of schools, but noted that some portion should be used for personnel. He stated that teachers have said in open meetings that they are willing to take a lower pay increase to get a better facility.

Eleanor Smalley said that she thought Mr. Hobert had made some very good points on the long-term use of the funds. Dr. Smalley drew the Boards' attention to a chart of salary comparisons, noting that salaries are falling behind and expressing her strong support for using the funds for salary increases. She opined that additional money is also necessary to fund extra curricular activities.

Chairman Staelin put forth that Clarke County Schools master supplements are \$2,000 to \$2,500 higher than Frederick County or the City of Winchester and there is also the availability of other supplemental money of about 1,600 per teacher. He opined that in light of these supplements Clarke County is still very competitive in salaries and that many Clarke teachers make more than those in Winchester or Frederick. Mr. Staelin said that he did not want to fall behind in salaries however it ultimately comes down to priorities. If you are a small county, we cannot afford to have the best buildings, the highest salaries, the smallest class sizes, and the best programs. We need to set priorities. Chairman Staelin also said he did not like the idea of using the money to fund debt service as there was no way to segregate the funds after this year. Chairman Staelin stated that the Board of Supervisors was not prepared at this time to make a decision regarding the funds.

Joint Meeting Request

Gary Hornbaker requested a status update regarding Dr. William Houck's June 14, 2004, request for a joint meeting with representatives from the School Board, Town of Berryville, Clarke County Planning Commission and the Board of Supervisors to discuss site issues. Chairman Staelin advised that he was currently in the planning process to arrange a meeting that would accommodate the schedules of the numerous attendees. Mr. Staelin indicated that the proposed meeting would be partially open but that any property-oriented conversation would be discussed in closed session. Mr. Hornbaker thanked Mr. Staelin for his consideration and his efforts to plan the meeting.

Citizen Comment

Wingate Mackay-Smith, White Post – Conservation Easement Authority Chair: addressed the Board on her own behalf, as well as the Conservation Easement Authority asking for a balance between the overwhelming demands and expenditures for the schools and the needs of the rest of the County, which seem to be less stridently advocated. She said that, while all understand the importance of schools, 70% of the individual citizen tax goes to support the school system. She opined that the Conservation Easement Program also goes to support the schools and that Clarke County has a model comprehensive plan and its implementation is of utmost importance if the County will continue to lead the way for progressive land use in the state. Mrs. Mackay-Smith stated that the land use program has received accolades nationwide and other counties and states are following our program. She further said that the land use program is a keystone for the future of our County and requested that it be invested in as faithfully and as methodically as we invest in the school system.

Robin Duncan, Berryville: stated that he was in agreement with the comments of Wingate Mackay-Smith. Mr. Duncan opined that due to the Planning Commission, the Board of Supervisors and the Comprehensive Plan Clarke County was the best county in Northern Virginia. He said that education is the most expensive part of the County's budget and it was for the development of the children and the future. Mr. Duncan further stated that there is more to the development of a child than what is learned in school and that the environment in which a child is raised is equally important. He expressed concern that future Boards might take a different view and move more toward the development that is seen in surrounding counties, which would disrupt the environment and change the way of life. He espoused that the Conservation Easement Program would provide a permanent legal bulwark against such a disaster and requested the Board to fund this program.

Andrew Kiser, Winchester – President, Clarke County Education Association: spoke regarding the \$312,000 the State is to provide. He said that he appreciated all the issues that were on the plate that the County has to consider and indicated that he knew it was not easy to allocate all the funds needed. Mr. Kiser opined that the additional funds were sent to meet the operational expenses of the school system and that the money should be directed in its entirety to the schools.

Chairman Staelin expressed his respect for Mr. Kiser then advised that the money came from the act entitled Public Education Standards of Quality / Local Real Estate Property Tax Relief Fund. He stated the bill advocates that each county and city should also take into account future tax rates when considering how the money should be spent. Mr. Staelin said that the bill is very specific about some of the ways that the funds may be spent; and that if the counties have been funding teacher positions that the State should have been funding in the past, then they have the right not to use the money to add on to education.

Mr. Kiser responded that he appreciated the point stating that he wished to remind the Board that all the Supervisors have publicly supported keeping salaries competitive and this is a chance to be proactive.

Supervisor Dunning advised that the Board of Supervisors provides the money to the School Board, who set the budget; therefore the School Board sets teacher's salaries not the Board of Supervisors. He said that the schools must spend the budgeted money wisely and that it was incumbent upon Mr. Kiser, as the representative of the teachers, to look at the balance over the last five years of the money that has been spent on administration versus the money spent for the teachers and other costs.

Dr. Eleanor Smalley, Superintendent – Clarke County Schools: responded to Supervisor Dunning advising that the schools did not add a position and they have the same number of administrators as they previously had, which she will bring up with the School Board. She stated that Mr. Dunning might have received confusing information that lead him to an erroneous belief. Dr. Smalley advised that school administration works very closely with the teachers association through the entire budget process.

Mark Carrey, Band Director at Clarke County High School: requested that part of the \$312,000 be spent to purchase uniforms and instruments for the band program, which has tripled in size over the last eight years.

Betsy Munson, Teacher and Coach at Clarke County High School: explained what the \$312,000 would mean to the scholar athletes and the girls soccer team and asked that a percentage of the money be appropriated to support extra curricular activities that Clarke County schools offer. She informed the Board that due to lack of funding she and the parents must volunteer their time to get the extra uniforms and equipment that is needed.

Chairman Staelin extended his congratulations on the success of the girls' soccer team, who participated in the State finals.

Wendy Osterling, Choral Director at Johnson Williams Middle School: addressed the Board stating that this was her first year in Clarke County and one of her reasons for coming was the vision of Dr. Smalley that all children can learn and achieve at high levels. Art, athletics, and extra curricular activities are part of the learning process and are very important to our community and are not being funded at the levels they should.

Chairman Staelin stated that the County was filled with potential for good programs whether it be Social Services, the Health Department, the Animal Shelter, Parks, etc. If looked at individually, they all look great and all have great things to offer; however, the Board of Supervisors must look at all of them knowing there is a limit to what the County can afford and prioritize. He stated that he appreciated all the work being done to support extra curricular activities reminiscing that his mother volunteered to raise money for these groups when he was in school opining that generations from now parents would still be doing these types of fundraising activities.

Approval of Meeting Minutes

Supervisor Byrd noted a change on Page 994 Book 17 motion to go into Closed Session Supervisor Dunning vote from Absent to Aye.

Vice Chairman Hobert moved to approve the minutes for the May 18, 2004 regular meeting as modified.

The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Absent
Supervisor Weiss	-	Aye

Consent Agenda

Scenic Highway Designation 638 Howellsville Road

The Board of Supervisors of Clarke County, in a regular meeting on the 15th day of June 2004, adopted the following:

RESOLUTION

WHEREAS, §33,1-62 of the Code of Virginia authorizes the Commonwealth Transportation Board to designate any highway as a "scenic highway" or as a "Virginia byway", and

WHEREAS, §33,1-63 of the Code of Virginia defines a "Virginia byway" as a road having relatively high aesthetic or cultural value, leading to or within area of historical, natural or recreation significance; and further in the selection of a "Virginia byway", preference shall be given to corridor controlled by zoning or otherwise, so as to reasonably protect the aesthetic or cultural value of the highway, and

WHEREAS, §33,1-64 of the Code of Virginia defines a "scenic byway" as a road within a protected scenic corridor located, designed, and construct so as to preserve and enhance the natural beauty and cultural value of the countryside; and further must substantially meet the following criteria: the route provides important scenic values and experiences
there is diversity of experiences as transition from one landscape scene to another,
the route links together or provides access to scenic, historic, recreation, cultural, natural, and archeological elements,
the route bypasses major roads or provides opportunity to leave high-speed routes for variety and leisure in motoring,
the route allows for additional features that will enhance the motorist's experience and improve safety, and
the local government has initiated zoning or other land-use controls, so as to reasonably protect the aesthetic and cultural value of the highway, and

WHEREAS, the Clarke County Board of Supervisors has significantly limited land uses for 98% of the County by placing this land in either the Agricultural-Open Space-Conservation or Forestal-Open Space Conservation Zoning Districts (see map), and

WHEREAS, the principal land uses in the Agricultural-Open Space-Conservation and Forestal-Open Space-Conservation Zoning Districts are limited to Agriculture, Forestry, Horticulture, Open Space, and a limited number of new single family detached dwellings (0-15 acre parcels – one new dwelling, 15-40 acres – two dwelling units, 40-80 – three; 80-130 – four; 130-180 – five, 180-230 – six, etc., [Clarke County Zoning Ordinance § 3-D]), and further these limitations on single family dwellings have been in place since 1980 and more than 1/3 of these dwellings have already been built, and

WHEREAS, the setbacks for structures from scenic highways in the Agricultural-Open Space-Conservation or Forestal-Open Space-Conservation Zoning Districts are 50 feet, in addition to base setbacks of 50 feet for parcels of one to four acres, 75 feet for parcels of four to twenty acres, and 100 feet for parcels twenty acres and greater (Clarke County Zoning Ordinance §§ 3-A-1-c & 3-A-2-c), and

WHEREAS, the Clarke County Board of Supervisors approved the renewal of the Clarke County Agricultural and Forestal Districts in March 2004 with a total acreage of 34,060 or 31% of the County (see map), and

WHEREAS, as of 20 January 2004, there are 14,068 acres or 12% of Clarke County in permanent open space easement (see map), and

WHEREAS, the entire 22 mile length of the Shenandoah River in Clarke County has been designated by the Virginia General Assembly as a state scenic river, and

WHEREAS, 33,644 acres of Clarke County are in six National Register Districts (Berryville, Boyce, Cool Spring Battlefield, Greenway, Long Marsh Run, and White Post) (see map) and in addition, more than two dozen properties are individually listed on the National Register, and

WHEREAS, the roads proposed for “scenic highway” or as a “Virginia byway” designation in Clarke County traverse land with high aesthetic or cultural value or lead to or within area of historical, natural or recreation significance, and

WHEREAS, The Board of Supervisors of Clarke County, in a regular meeting on the 20th day of April 2004, adopted a resolution requesting 27 Virginia routes be designated by the Commonwealth Transportation Board as a “scenic highway” or as a “Virginia byway”, and

WHEREAS, Route 638, Howellsville Road, exhibits the same scenic qualities as the other roads proposed for designation, but was not included in the original list of proposed routes.

NOW, THEREFORE, BE IT RESOLVED: the Clarke County Board requests that Route 638, Howellsville Road, be added to the attached list of 27 Virginia routes to be designated by the Commonwealth Transportation Board as a “scenic highway” or as a “Virginia byway.”

Recorded Vote

Moved By: _____

Yeas: _____

Nays: _____

A Copy Teste:

John Staelin, Chairman

Clarke County Board of Supervisors

FY 05 Contract for Maral Kalbian

David Ash briefly reviewed the contract for Maral Kalbian to provide support to the County for the enumerated items on the contract.

Vice Chairman Hobert moved to approve the Consent Agenda.

The motion carried by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Absent
Supervisor Weiss	-	Aye

Virginia Department Of Transportation

Jeff Lineberry appeared before the Board of Supervisors to provide the monthly update. Bob Childress accompanied Mr. Lineberry.

Speed Studies

The Board expressed their appreciation for the reconsideration on the reduction of speeds on various sections of roadways within the County. Supervisor Byrd thanked VDOT for the job done on Senseny Road with the rip-rap. Chairman Staelin stated that with the granting of the speed reductions the Board needs to work with the Sheriff on enforcement.

Mr. Lineberry indicated that it would be at least a month before the lowered speed limits go into place. The recommendations must go to the Commonwealth Transportation Board, who will provide notice of approval.

Budget Reductions

Jeff Lineberry advised the Board that they anticipate cuts in funding for 2005 and over the next 6 years, which will be 14% to 30%. As a result, some projects may need to be cut. It is their intention to maintain dates on advertised projects, which may cause those later in the schedule to suffer. Maintenance operations are to be funded before construction. Road repair, snow removal, mowing, safety upgrades are given priority.

Other Matters

There was discussion with VDOT on a variety of matters.

- 649 pavement repairs
- Mowing on secondary roadways in process
- Mowing on primary roadways will resume the latter part of July
- Route 7 bypass east bound – no turn lane – have applied for Federal safety funding to install. It is combined with several smaller projects to make it more attractive to bidders. However, it has been advertised twice; but the lowest bid is still 20% over VDOT's construction estimates. Meetings are being conducted to address the problem.
- Route 7 light by Audley Farm appears to remain red for extended periods. It is supposed to reside in green on Route 7. There were programming issues and new software was installed. The intersection is also very dark and may have a ghosting image problem that may result in a false call.
- Route 606 wood/timber deck of the bridge appears to be decaying.
- Review text amendment proposed under TA-04-05 to ensure it meets VDOT design standards
- Research whether a weight limit has been established for the bridge over the Opequon near the County line. The bridge was built in 1917.
- Scotsman Ferry Road remove overhanging, dead sycamore limbs.
- Route 612 drainage ditch is flagged; Ricky Pope has on the plan.
- Route 608 by Grafton School has a pothole on the right-hand side, which will be placed on the repair schedule.
- Gun Barrel Road residents are pleased with the stop sign.
- Route 612 by J&J Market [Doodles] all but one sign has been adjusted.
- Route 340 in the Town of Boyce left turn lanes will be added and lanes marked.
- Double Tollgate - new pattern is better but the traffic continues to increase. Money has been requested from the State to extend the northbound turn lane on 340.
- Route 621 - gravel roads are unposted and cannot be posted. Legislation has been introduced in the past to lower speeds on gravel roads to 35 MPH but it failed in committee.

Public Hearing - Special Entertainment Permit – 29th Annual Virginia Wine Festival – August 21 & 22, 2004 at Historic Long Branch

David Ash, County Administrator, provided an overview of the application for the Board. Last month, not all of the responses were available as organizations and departments were waiting to assess the impact of the Vintage Virginia Wine Festival held on June 5 and 6, 2004. Supervisor Dunning expressed concern regarding the potential for over consumption citing reports received from local fire and rescue regarding the number of inebriates at the June event and requested additional research. During the June event, seven persons were transported to Detox and others were advised to wait before operating a motor vehicle. Sheriff Roper indicated that a different mix between law enforcement and security with more law enforcement personnel being available later in the day. Mr. Roper is working with Shows, Inc. to address this matter for the August event.

Gordon W. Murchie, President, Vinifera Wine Growers Association: appeared before the Board to represent the sponsors of the August festival, which include wineries and wine growers. Mr. Murchie described Long Branch as a "sea of mud" due to the rain during the June event. Mr. Murchie stated that they re-evaluate after every festival and this was their first time at Long Branch. He emphasized that the vendors are held responsible by law for the selling of alcoholic beverages just as a restaurant owner. He advised that in addition to local law enforcement there were five ABC agents on site.

Jim Barthold, Shows, Inc.: addressed the Board that they do have many people sampling wine and the vendors are trained to identify over-consumption and are the final person responsible, just as a bartender in a bar, to refuse service. Each vendor must sign an agreement and receive written instructions regarding the law including carding and refusal to serve. He concurred that some people do drink too much, which is why they have security, law enforcement and ABC agents at these events.

Chairman Staelin opened the public hearing to solicit public comment at 10:08 am.

Dennis Horton, winery owner in Commonwealth of Virginia: advised the Board that wineries train their employees not to serve those who have over imbibed; however, vendors cannot control consumption of alcohol after it has been purchased. Mr. Horton stated the one of the festival rules is that people are not to be walking out with open bottles or containers of alcohol.

John Bellicoola – supporter of agricultural business: thanked the Board for allowing the June festival, which is a huge support for the Virginia wine and agricultural industry. He asked the Board to support the industry again by allowing the August event.

Jodi Popio, Director of Programs - Long Branch: stated that Long Branch has no problems sponsoring the August event. Shows, Inc. has promised to rectify the problems caused to the grounds as a result of the rain during the June festival.

Ricky Pope, VDOT - Clarke County Supervisor: stated that Shows, Inc. had worked with the State and they had no problems if they were able to keep the attendance to the size they had during the June event.

Chairman Staelin stated that the Sheriff's Department is to be reimbursed for the extra time spent at the festival. He restated the need to have more uniformed law enforcement later in the day at future events. Gordon Murchie stated that the ABC agents were uniformed as well. He advised that ABC recommended placing a tent in the center of the complex for use as a public safety tent and first aid.

Sally Hamrick, Shows, Inc.: informed the Board that there were 15 uniformed security officers from a private agency at the event. She indicated that she had spoken with Sheriff Roper about coverage hours and options.

At 10:20, there being no others wishing to address the Board regarding this matter Chairman Staelin closed the public comment portion of the public hearing.

Supervisor Dunning said that he wants to support the wine industry, which is an important agricultural base in the State. He opined that these events help the small wineries gain recognition.

Supervisor Weiss stated that he, too, supports agriculture. He said that with events of this size the Board should solicit public comment, which is why he had called for a public hearing. Mr. Weiss surmised that conducting such events should be viewed not as a right but a privilege. Mr. Weiss stated that he was very pleased that the June event went well. He said that events should not become intrusive upon the community and a balance must be struck and controls put in place. Supervisor Weiss requested that if they should decide to pursue an event in June next year that it not be scheduled for the same weekend as the Barns Festival, which is important to the community.

At 10:30 am, Tony Roper and Bryan Conrad arrived to address the Board. Sheriff Roper indicated that there had been no major problems and that he was working with Shows, Inc. on adding more uniformed law enforcement and hours of coverage. Mr. Roper will bill Shows, Inc. for the additional man-hours. He said that everyone had been cooperative and receptive to suggestions.

Bryan Conrad, Chief – Boyce Volunteer Fire and Rescue Company, stated that there were no great issues of concern for the Board. However, there were issues that needed to be resolved between Shows, Inc. and local fire and rescue, as well as law enforcement. Mr. Conrad opined that everyone had been fairly cooperative.

Supervisor Byrd stated that everything looked very positive. She speculated that the damage to Long Branch property might be a limiting factor considering the number of people and the event being held rain or shine.

Mr. Conrad stated that the County should look at the process and consider collecting a fee to cover at least the obvious expenses to the County. Chairman Staelin stated that the County Code covering the special entertainment permit process is currently under review.

Supervisor Dunning moved to approve the Special Entertainment Permit for the 29th Annual Virginia Wine Festival subject to payment of any fees or charges due to any agencies/organization for services rendered at the 2004 Vintage Virginia Wine Festival – June 5 and 6, 2004, and continued cooperation from Shows, Inc. with County officials in the planning for the upcoming festival.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Chairman Staelin advised that if Shows, Inc. is to conduct festivals that they should come back to the Board shortly after the event, long before plans are made for the next year.

Public Hearing – Text Amendment [TA-04-05]

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

a. Section 4-H-3 Height Limitations,

b. Section 4-J-5 Limitations on Off-Street Parking,

c. Section 6 Site Plan Standards, and

the amendment of the County Subdivision Ordinance: Section 8 Design Standards, so as to limit the height of agricultural structures and gasoline canopies, limit parking for commercial uses to commercially zoned property, provide for Highway Access Management Standards for Site Plans and Subdivisions. TA-04-05

Chuck Johnston, Planning Administrator, informed the Board that Jeff Lineberry and Bob Childress, VDOT, had reviewed the proposed text amendment and had suggested changes to street design requirements. He stated that they had conveyed their appreciation for the County's efforts to set standards.

Mr. Johnston advised that the parking standards are an accessory to commercial use. Mr. Johnston stated that he could research the use of flexible language to allow uses of parking lots by more than one business with different hours of operation.

Supervisor Dunning expressed concern regarding restrictions on off-street parking in the small villages in the County. He opined that they did not wish to strangle economic development. Supervisor Byrd concurred noting Pine Grove, White Post, Boyce and Millwood, which are all small villages or towns with limited parking. Supervisor Weiss stated that if you lived close to a small business or restaurant you would not want people parking on an empty residential lot next to your house. Chairman Staelin restated that parking is part of a commercial use and should be zoned in that manner.

Chairman Staelin opened the public hearing for comment at 11:11. There being no persons present wishing to address the Board on this matter the public comment portion of the hearing was closed.

Supervisor Weiss said that he had spoken with farmers regarding the height limitations on silos and farm buildings and the proposed changes were not viewed unfavorably.

Supervisor Byrd moved to approve text amendment TA-04-05 as modified incorporating the suggestions made by the Virginia Department of Transportation.

The motion carried as follows:

- Chairman Staelin
- Aye
- Vice Chairman Hobert
- Aye
- Supervisor Byrd
- Aye
- Supervisor Dunning
- Aye
- Supervisor Weiss
- Aye

ZONING ORDINANCE TEXT AMENDMENT

Text to added shown *in bold Italics*

Text to be deleted shown ~~struck through~~

- 4 GENERAL REGULATIONS
- 4-H HEIGHT REGULATIONS
- 4-H-3 Height Limitations
- 4-H-3-a ~~Exceptions-Excluded from Application: The height limitations of this Ordinance (4/20/93) shall not apply to barns, silos, farm buildings, smokestacks, or to w~~ ***In general, farm structures used for agriculture shall not exceed 50 feet in height, and silos shall not exceed 100 feet in height, however the height of such agricultural structures shall not exceed the distance from the structure to the nearest lot line. Water tanks, shall not exceeding in height the distance there from to the nearest lot line.***
- 4-H-3-b ~~Exceptions-Limited:~~ Towers, gables, penthouses, scenery lofts, residential chimneys, cupolas, spires (or similar structures), ***smokestacks***, and necessary (7-15-97) mechanical appurtenances, may be erected on a building to a height greater than the limit established for the district in which the building is located; provided, that no such exception shall cover at any level more than fifteen percent of the area of the roof on which it is to be erected; and provided, further, that no such exception shall exceed maximum height established in the district by more than forty percent.
- 4-H-3-c Parapet Walls, Cornices, etc.: A parapet wall, cornice or similar projection may exceed the height limit established for the district by not more than three feet, but shall not extend more than three feet above the roof level of any building.
- 4-H-3-d Accessory Building in Residential Districts: No accessory building in a residential district shall exceed a height of 24 feet.
- 4-H-3-e ***Gasoline Pump Canopies: Canopies covering gasoline pumps shall not exceed a height of 18 feet, 6 inches.***
- 4-J OFF-STREET PARKING
- 4-J-5 Limitations on Use
- 4-J-5-a No required off-street parking shall be used for the sale, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies, and no other parking or other area on a lot shall be used for such purposes unless permitted under District Regulations.
- 4-J-5-b ***Off-street parking (whether on-site or off-site) shall be allowed only for principal uses, accessory uses, or special uses (approved by the Clarke County Board of Supervisors) that are allowed by the regulations of zoning district in which the off-street parking is located.***
- 6 SITE DEVELOPMENT PLANS
- 6-G CONTENTS
- 6-G-34 Anticipated daily vehicle trips generated by the site development ***based upon data found in Trip Generation, by the Institute for Transportation Engineers, latest edition; capacity of existing and proposed streets; sight distances for all intersections based on Virginia Department of Transportation (VDOT), Road Design Manual and Minimum Standard of Entrances to state highways, latest edition; proposed improvements within existing street rights-of-way; and, further traffic studies as required by the Agent. If additional traffic studies are required, the applicant shall use the applicable criteria and methodologies found in the VDOT Design Manual, latest edition. The Agent may assign all or a part of the VDOT "Guidelines for a Traffic Impact Study" depending on the type, size, and location of the development.***

6-H IMPROVEMENTS AND MINIMUM STANDARDS

6-H-1 Streets and Rights-of-Way
A traffic impact study is required when the proposed new development will generate traffic in excess of 1000 vehicles per day. If the proposed development generates less than 1000 vehicles per day, but the nearest intersection is known to be near its design capacity, or there is a high accident rate as determined by the Planning Commission, a traffic impact study may be required. The parameters of the traffic impact study will be decided by the Planning Commission, however, the methodology for preparing the study will be that found in the VDOT Design Manual, latest edition.

6-H-1-c All development must have direct access to public dedicated and State or Town-maintained roads. ~~Sites or lots shall not have direct access to any arterial road, unless the physiography, shape, or size of the tract precludes other methods of access.~~ *Lots, with less than 70 feet of frontage, shall not have a permanent single separate access to any primary road unless the physiography, shape or size of the tract precludes other methods of access. Common (joint) access shall be used where available. The site design of new commercial/industrial development, accessed by a primary highway shall include interconnection and shared driveways with adjoining commercial/industrial property (vacant or developed) and, if conditions warrant, frontage roads.*

The Planning Commission may allow temporary access points if phased development is occurring, as long as a plan is approved that guarantees the new commercial/industrial development shall design site access so that interconnection with an adjoining property, shared driveways, or a frontage road can be incorporated into the design.

Except where impractical by reason of topography hardship, the area between the frontage road and the primary highway shall be sufficient to provide area for scenic planting and screening. The dimension of the area between the frontage road and the primary highway shall be determined after due consideration of traffic safety requirements. Driveway spacing and corner clearance with public highways (the distance from the nearest driveway travel lane centerline to the nearest street corner right-of-way) shall be:

<u>Roadway</u>	<u>Driveway Spacing/Corner Clearance</u>
Frontage	100 feet
Secondary	600 feet
Primary	600 feet where there is no median opening 1000 feet where there is a median opening

6-H-1-f ~~Travel ways designed for on-site two-way vehicular traffic circulation shall in no case have a pavement width of less than 20 feet.~~

On-site travel ways shall be designed with the following standards:

Turn Radius: Minimum turn radii shall be 25 feet (increased radii to be provided if site is to be used by large truck traffic);
Driveway Width: Maximum driveway width: 14 feet per lane if one-way in and one- way out; 11 feet per lane for multi-lane entrance/exit;
Driveway Throat Length: To be determined on a case by case basis; desired length will depend on vehicle peak hour demand and resultant expected queuing needs;
Right/Left Turn Lanes: Required when right/left turn volume into or from the subject site exceeds 300 vehicles per lane; and
Taper Lane: The Planning Commission may require an on-site right turn taper when right turn traffic volumes are less than 300 vehicles per hour.

6-H-4 Sidewalks, Paths, and Walkways
Sidewalks, paths, and/or walkways shall be provided to enable the public to walk safely and conveniently from one building to another on the site, to and from adjacent sites, and to and from sidewalks in the public right-of-way. The construction material to be used must meet the approval of the Administrative Body or the Agent. *Where the Clarke County Comprehensive Plan designates a trail system and that system traverses commercial/industrial sites, the site plan shall incorporate the trail system into the design. All such sidewalks, paths, and walkways shall comply with the standards of the Americans with Disabilities Act.*

SUBDIVISION ORDINANCE TEXT AMENDMENT

Text to added shown *in bold Italics* Text to be deleted shown ~~struck through~~

8 DESIGN REQUIREMENTS

8-C STREETS

8-C-2 When a ~~major~~ subdivision abuts one side of any public street that is already in the state (8-22-00) highway system, the *Planning Commission may require* ~~the~~ *subdivider shall be required* to dedicate ~~one-half of the right-of-way and easements necessary to make said street conform to~~

~~Virginia Department of Transportation or County criteria. In addition, the subdivider may be required to dedicate the full right of way necessary to make horizontal and vertical adjustments to~~ ***ensure the safe design and function of*** said street.

8-C-8 Whenever a proposed subdivision contains or is adjacent to a ~~major thoroughfare, arterial highway, limited access highway or primary highway,~~ ***the Commission shall require a minimum of 1000 feet separation between any proposed driveway and any existing driveway, private lane, or secondary highway intersecting with the primary highway on the same side of the primary highway as the proposed driveway.*** ~~The Commission may require provisions to be made for service drives approximately parallel to such right-of-way, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic. Except where impractical by reason of topography hardship, the area between the drive and the major thoroughfare or artery~~ ***primary highway*** shall be sufficient to provide area for scenic planting and screening. The dimension of the area between the service drive and the ~~major thoroughfare or artery~~ ***primary highway*** shall be determined after due consideration of traffic safety requirements. ***Any intersection of driveways or private lanes with service drives shall be at least 100 feet from the intersection of the service drive with a primary highway.***

Public Hearing – Text Amendment [TA-04-07]

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

- a. Section 3-A-1-a-(3) Special Uses in the AOC Zoning District;*
- b. Section 3-A-2-a-(3) Special Uses in the FOC Zoning District;*
- d. Section 3-C-2 Supplementary Regulations; and*
- e. Section 9-B Definitions of Assisted Living Facility, Country Inn, and Kennels*

so as to update the definition of facilities for the care of aged, infirm, or disabled adults, clarify the definition of a Country Inn, and stipulate that Assisted Living Facilities, Country Inns, and Kennels are allowed only as accessory uses to Single Family Detached Dwelling. TA-04-07

Chuck Johnston advised the Board that the recommendations made at the previous board meeting were incorporated into the proposed text amendment. Language was added that limits the distance of a separate assisted living facility to 50 feet from the dwelling. Supervisor Dunning proposed that the maximum distance from the main dwelling for a kennel should be reduced from 300 to 200 feet.

Following extended discussion, it was determined that additional research, revision and review was required for country inns and that portion of the proposed text amendment should be tabled. Chuck Johnston stated that as a commercial use a DUR is not required. Chairman Staelin advised that if there is to be a resident innkeeper a DUR is required and the country inn must be no more than 50 feet from the core dwelling.

Chairman Staelin opened the public hearing for comment at 11:44. There being no persons present wishing to address the Board on this matter the public comment portion of the hearing was closed.

Supervisor Byrd moved to approve TA-04-07 as modified reducing the distance a kennel can be from the dwelling from 300 to 200 feet and removing 9B42 county inns.

The motion carried as follows:

- Chairman Staelin

Vice Chairman Hobert

Supervisor Byrd

Supervisor Dunning

Supervisor Weiss
- -

-

-

-
- Aye

Aye

Aye

Aye

Aye

3 DISTRICT REGULATIONS

3-A SCHEDULE OF DISTRICT REGULATIONS

3-A-1 AGRICULTURAL-OPEN SPACE-CONSERVATION DISTRICT - AOC

3-A-1-a Permitted Uses and Structures

3-A-1-a-(3) Special Uses and Structures

3-A-1-a-(3)-(h) ~~Housing for four to eight Older Persons requiring medical and/or food support services~~ ***Assisted Living Facility for four to eight adults***

3-A-2 FORESTAL-OPEN SPACE-CONSERVATION DISTRICT - FOC

3-A-2-a Permitted Uses and Structures

3-A-2-a-(3) Special Uses and Structures

3-A-2-a-(3)-(h) ~~Housing for four to eight Older Persons requiring medical and/or food support services~~ ***Assisted Living Facility for four to eight adults***

3-C SUPPLEMENTARY REGULATIONS (10/17/00) (11/18/03)

3-C-2 Uses in Various Districts

3-C-2-h Country Inn: (9/18/90)

3-C-2-h-(1) One bathroom shall be provided per each bedroom in structures less than 50 years old or one bathroom shall be provided per each two bedrooms in structures 50 years or older.

~~3-C-2-h-(2) Guest rooms shall be occupied on a transient basis; any period of continuous occupancy shall be no longer than 30 days.~~

3-C-2-h-(3) Any need for parking shall be met off the street and other than in a required front yard, and shall conform in all other ways with the provisions of Section 4-J of this Ordinance;

~~3-C-2-h-(4) There shall be permitted only one sign on the lot or parcel upon which the structure is situated, which sign shall not exceed 20 square feet in area, shall set back not less than five feet from the fronting highway right of way, and may be illuminated. The sign shall be illuminated by external, white lights that do not cast a glare onto a public right of way or adjacent properties;~~

3-C-2-h-(5) No equipment, process, or vehicles which create unreasonable noise, vibration, glare, fumes or odors which are detectable to the normal sense off the premises shall be permitted;

3-C-2-h-(6) The structure satisfies all applicable requirements of the Commonwealth of Virginia and the local Health Official;

3-C-2-h-(7) All applicants for a country inn in an AOC zoning district shall accept the fact that adjoining agricultural land, due to fertilizing, manure spreading, lime spreading, feedlots, and other farming methods may produce offensive odors.

9 DEFINITIONS

9-B DEFINITIONS

9-B-## ASSISTED LIVING FACILITY: Any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four to eight adults who are aged, infirm or disabled and who are cared for in a primarily residential setting. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual. An Assisted Living Facility shall be allowed only as an accessory use to a Single Family Detached Dwelling, and such a facility shall be located in, or in a structure not more than 50 feet from of such a dwelling.

9-B-96 KENNEL: A place prepared to house, board, breed, handle, or otherwise keep or care for (10/17/00) dogs and cats for sale or in return for compensation. ***A Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling.***

9-B-97 KENNEL, Commercial Boarding

(10/17/00) A place designed or prepared to house, board, handle or otherwise keep or care for canine and/or feline animals in return for compensation. ***A Commercial Boarding Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling.***

9-B-98 KENNEL, Commercial Breeding

(10/17/00) ***A place designed or prepared to house or handle more than 20 canine animals for the purpose of breeding for sale in return for compensation. A Commercial Breeding Kennel shall be allowed only as an accessory use to a Single Family Detached Dwelling and shall be located not more than 200 feet from such a dwelling.*** *(See Animal Shelter)

Public Hearing – Text Amendment [CC-04-02]

The Clarke County Board of Supervisors will consider the amendment of the Clarke County Septic Ordinance, 143-9 System Siting, so as to add Section G limiting the maximum distance a drainfield may be located from a house to 400 feet. CC-04-02

Chuck Johnston provided an overview of the proposed text amendment. He stated that the drainfields should be close to the house and maintained according to standards. The general rule is that drainfields should be 300 to 400 feet from a house. Mr. Johnston opined that as time goes on the County would see the development of properties that are more challenging to develop due to access, slopes, and soils. In some cases, only one small section of a parcel may be acceptable for a drainfield. If the owner wants his house in another location to have a better view or more privacy, the drainfield could end up a long distance away. Applications are beginning to be seen where distance between drainfields and house sites are quite considerable either from an elevation or distance standpoint. There is concern that when drainfields are located so far away from the house that they may not be maintained as required by County Code. This could pollute the groundwater.

Mr. Johnston stated that if a drainfield fails in an existing home and County requirements cannot be met the matter may be appealed to the Board of Well & Septic Appeals. The proposed 400-foot rule will be applicable to new construction of drainfields. For new construction, the ordinance does not provide for an appeals process; and there is no hardship clause, which is available to existing homes. The site for new construction would have to be redesigned/modified to meet the requirements.

Chairman Staelin queried the process used if the land is covered by an easement that would not allow for placement within the proposed rule. Mr. Johnston stated that the variance process of the Board of Well & Septic Appeals also allows variances for properties that are National Register and historic properties. While this may provide some flexibility, there is no variance option on property that is part of an open space easement. Chairman Staelin stated that for persons who currently face easement restrictions on their land having access to the variance process would resolve their issue. He added that for persons who wish to go into easement there needs to be some flexibility in the rules for they are trying to preserve the environment.

Supervisor Byrd noted that the 400-foot rule is a third longer than a football field. Supervisor Dunning said that there may be a piece of property in easement that only has one site where the house can be built. He opined that when someone restricts their land by putting it in easement there should be some consideration.

Mr. Johnston stated that there are five criteria for which a variance may be considered: "1) a habitable building; 2) a habitable building destroyed by circumstances beyond the control of the owner; 3) the building is part of the National Register; 4) to provide a septic system that replaces an existing system that is more consistent with regulations; 5) and the entire parcel of land has been placed under an easement granted to the Virginia Outdoors Foundation. The parcel shall a) be vacant b) be a minimum 100 acres c) not be subdivided d) and have only two useable dwelling unit rights – one for a primary residence and one for a tenant."

Vice Chairman Hobert said that the variances for easement were quite restrictive. Chairman Staelin stated that these rules could be revised. Mr. Johnston suggested removing a, b, c and d noting that all of these issues could be worked out in the easement process. Chairman Staelin requested Mr. Johnston to propose the appropriate changes to the Board of Well & Septic Appeals variance process for conservation easement and bring them to the Board for review at the next meeting.

Vice Chairman Hobert said that he had trouble understanding that there is a public health purpose associated with 400-feet opining that while it is a long distance from the home you cannot be certain that it would not be properly maintained. Mr. Johnston explained

that Clarke County has taken a very strong stand against alternative drainfields with the primary reason being maintenance. He opined that he believed there were alternative systems that can be shown to legitimately work but all require maintenance. Drainfields require the least maintenance but maintenance is still essential. This Board and previous Board's have demonstrated this by setting the standard for pumping out every five years, which is the current ordinance. Mr. Johnston said that when it comes to public health the risk of having failing drainfields in obscure locations should not be something the County should allow to happen. There is not much to deal with after a problem occurs. Visibility, proximity, accessibility, knowledge that you have a drainfield and an understanding that the homeowner is responsible for maintaining their drainfield are all needed if the County is to have safe drinking water. This ordinance helps with the first three items. Supervisor Dunning stated that maintenance of a drainfield protects groundwater in karst conditions.

Vice Chairman Hobert said he now understood and surmised that this ordinance would be creating a standard for additional site plan review. Supervisor Weiss stated that there is still no particular notice given to the property owner regarding the location of the drainfield. He informed the Board that it is not an uncommon occurrence for people not to know that they have a drainfield. There was a discussion of the need for more citizen education, as well as this ordinance.

Chairman Staelin opened the public hearing for comment at 12:07. There being no persons present wishing to address the Board on this matter the public comment portion of the hearing was closed.

Supervisor Weiss moved to approve text amendment CC-04-02 amending the Clarke County Septic Ordinance, 143-9 System Siting, so as to add Section G limiting the maximum distance a drainfield may be located from a house to 400 feet.

The motion carried as follows:

- | | | |
|----------------------|---|-----|
| Chairman Staelin | - | Aye |
| Vice Chairman Hobert | - | Aye |
| Supervisor Byrd | - | Aye |
| Supervisor Dunning | - | Aye |
| Supervisor Weiss | - | Aye |

PROPOSED SEPTIC ORDINANCE TEXT AMENDMENT

Sections to be added shown in <i>bold italics</i>	Section to be deleted shown struck through
14 June 2004	

ARTICLE II
Siting and Installation
[Adopted 3-17-1992, as
amended through 4-20-04]

~ 143-9. Siting

G. ~~Any part of a drainfield trenches and lines may not be located farther than 400 feet from the building it serves. Drainfield parts include the distribution box, header lines, and trenches. Distance is measured from the house to drainfield part closest to the house.~~

G. *The distance from a house to the nearest component of a drainfield shall not be greater than 400 feet. Drainfield components include the distribution box, header lines, and trenches.*

Chairman Staelin instructed staff to modify the ordinance for the Board of Well and Septic Appeals variances.

Special Entertainment Permit – Bluegrass Festival at Watermelon Park on October 2, 2004

Frasier Watkins, festival organizer, appeared before the Board to review the Special Entertainment Permit for the Bluegrass Festival at Watermelon Park scheduled for October 2, 2004. Supervisor Weiss commended Mr. Watkins on an outstanding job

organizing the event. He reiterated his view that each festival should have a public hearing as a general rule. Mr. Watkins indicated that a public hearing would not cause a hardship.

Supervisor Dunning moved to set the matter for public hearing on July 20, 2004, at 10:00 a.m. or as soon thereafter as the matter may be heard.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Chairman Staelin instructed staff to advise persons requesting special entertainment permits that a public hearing would be required adding an additional month to the permit review process. He restated that the Chapter 57 Amusements of the Code of Clarke County was under review.

Set Public Hearing – Text Amendment [TA-04-08]

The Clarke County Planning Commission will consider the amendment of the County Zoning Ordinance:

- a. Section 3-A-1-a-(2) Accessory Uses in the AOC Zoning District;
 - b. Section 3-A-2-a-(2) Accessory Uses in the FOC Zoning District;
 - c. Section 3-A-3-a-(2) Accessory Uses in the Rural Residential Zoning District;
 - d. Section 3-C-2 Supplementary Regulations; and
 - e. Section 9-B Definition of the terms Home Occupation and Farm Winery,
- so as to limit the number and location of dwellings with less than 600 square feet, state that Bed & Breakfast Home Occupations do not include places of public assembly, limit the bottling production of Farm Wineries, and require a portion of the products used to make wine be grown on the property of the Farm Winery. TA-04-08

Chuck Johnston provided a brief overview of the proposed text amendment. He explained that the current regulations do not limit the number of mother-in-law cottages and/or tenant houses on a parcel. There was discussion regarding the benefits of these types of dwellings for agricultural business. Mr. Johnston said that no information is currently available as to the occupancy of these small dwellings, whether they are tenants, relatives or rentals. Chairman Staelin requested Mr. Johnston think about establishing a database of these dwellings. He expressed concern that people would build additions on to these small structures in the future even if they did not have the needed DUR. Mr. Johnston noted that the building permit process would stop any additions that over the 600-ft limit.

There was additional discussion with regard to establishing limits for bed and breakfast home occupations, as well as farm wineries.

Supervisor Dunning moved to set the matter for public hearing on July 20, 2004, at 10:00 a.m. or as soon thereafter as the matter may be heard.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Set Public Hearing – Text Amendment [CC-04-03]

The Clarke County Board of Supervisors will consider the amendment of the Clarke County Code Chapter 180, so as to add Article VIII, Section 180-34 Sewer Use Ordinance.

Alison Teetor reviewed the proposed text amendment. She advised that the County must pass a sewer use ordinance to get reimbursed by DEQ for the sewer project. The proposed ordinance has been reviewed and approved by the Clarke County Sanitary Authority and is currently under review by Bob Mitchell to ensure there are no conflicts. David Ash advised Ms. Teetor that since the ordinance would be part of the Code of Clarke County all references to the Clarke County Sanitary Authority would need to be changed to the Clarke County Board of Supervisors. Chairman Staelin requested that the phrase “maximum possible sewer use” be removed. He raised concerns regarding the language on page 5 giving permission to enter homes. It was suggested that “with proper notice” be added for clarification. Mr. Staelin requested clarification to the references on page 11 to “garbage and objectionable waste”.

Supervisor Dunning moved to set the matter for public hearing on July 20, 2004, at 10:00 a.m. or as soon thereafter as the matter may be heard.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Discussion Of Committee Action

Personnel

David Ash advised that the Board of Supervisors can appoint a liaison to the Clarke County Sanitary Authority but it cannot create a new position, therefore they would have appoint to a vacancy. For the Industrial Development Authority, a Supervisor cannot be a member but can be a liaison.

Chairman Staelin appointed J. Michael Hobert as the Board of Supervisors liaison to the senior center projects' Capital Campaign Committee for Shenandoah Area Agency on Aging, Inc.

Supervisor Byrd said that she would speak to the Board of Social Services on Thursday regarding the reappointment of Richard Davis.

Board of Supervisors Work Session

David Ash stated that VDOT approval is still pending for the Tunes and Tastes Festival at Veramar Vineyard. He said that he has spoken to the property owner and the approval authority at VDOT and was told VDOT had sent letters advising the property owners of the requirements. VDOT assured Mr. Ash that upon receipt of the paperwork from Veramar they will approve the entrance and provide notice to the County.

The Litter Committee has proposed that the County become an agent for VDOT in enforcing violations of the VDOT right-of-way signs. This matter as been referred back to the Litter Committee for additional review.

Finance

Voting Machine Purchase Options

The Electoral Board has recommended the immediate purchase of DRE voting machines. The Finance Committee recommends that State contract provisions and the contracts of other localities be reviewed prior to decision on purchase of voting equipment and that actual authorization be delayed until funds are available through the State.

Discussion—Impact of General Assembly Budget Actions

The Finance Committee recommends additional review of the impacts of the various General Assembly Actions prior to making additional budget decisions. Mr. Judge continues to develop the fiscal impact worksheet and will enter the potential changes into the Morgan Keegan financial model.

Chairman Staelin stated that the proposed \$312,000 additional money from the State is based on the number of students enrolled in the school system. At present, it would require an additional 60 students to get the entire amount proposed; therefore, the actual amount received could be smaller.

Supervisor Dunning asked if it were possible to find out the number of non-County students attending the Clarke County schools that do not pay tuition. He said that he believed there were a sizeable number of out-of-area students attending Clarke County schools illegally. He said that he recently polled 40 cars dropping off students at one school and 10 of these had stickers from Warren County and the City of Winchester. Mr. Dunning expressed concern noting that Clarke County taxpayers should not be subsidizing these students. He further noted that school enrollment projections have been consistently higher than actual over a period of years.

Chairman Staelin stated that he wants to know how the schools intend to spend the money but the schools have said the amount they get will determine how they spend it. Supervisor Dunning said that the budget was set not thinking that much money would come from the State. He said that the County is cutting a fine line and had a tight budget. He opined that the \$312,000 represents a 3-cent tax increase. He said that the deficit budgeted for FY '05 for the County is \$219,000 and that the new money should go into capital. Vice Chairman Hobert concurred with Mr. Dunning in that it is the choice of the County not the State on how the money is appropriated. Mr. Hobert said that the money does fall within the formula established by the resolution. He advised that this funding is intended to be a stream of income for the foreseeable future and could be used as debt service. He said that he would like to see the School Board put a portion of the funding aside to fund new construction.

Supervisor Byrd drew the Board's attention to a list compiled by Dr. Smalley of items upon which the schools might possibly spend the money. This list was not voted on by the School Board. Mrs. Byrd, for the record, addressed the reduction of \$42,000 from the schools FY '05 budget. She said that in FY 04 the Board of Supervisors appropriated \$42,000 to the schools to finance a school Resource Officer. That position was deleted from the school budget in the FY 05 budget and the funds were absorbed by the schools. What the Board of Supervisors did was to take the same \$42,000 and appropriated it to the Sheriff's Department for the Resource Officer that everyone felt was needed in the schools. That is what was done by the Board of Supervisors and it was their responsibility to move the money rather than double dipping and funding the same position twice. The Board of Supervisors were just being responsible to the tax payers of the County at a time when we are all "cutting ourselves to the bone".

Supervisor Weiss stated that there was a special meeting of the School Board where parents and students spoke regarding the needs of the extra curricular programs, which appear to be very genuine. He told the Board that Mr. Hornbaker, School Board member, had advised everyone at that meeting that they should look at the money on a much broader scope. Mr. Weiss noted that it was an excellent point that this money is three (3) cents off the tax rate, which should be given strong consideration. He opined that it appears to be the more prudent policy to put the money toward school construction.

There was additional discussion on school construction. Vice Chairman Hobert raised the thought that the \$25MM would not be enough to build a new high school. This comment caused Supervisor's Dunning and Byrd to suggest renovation of the high school as a high school and keeping competitive teacher salaries. Ed Breslauer was asked to ask the Superintendent to provide the Board with the number of teachers who re-signed for school year 2004-2005.

Chairman Staelin restated that the Board would make no decision today and the matter would be referred back to the Finance Committee. He will ask the schools to prioritize their needs and advise the Board of Supervisors on how they want to use the money.

Discussion—Bond Issue Authorization Schedule

Chairman Staelin reviewed a draft of the Bond Submission and Approval Process document that outlines a process for matching the timing of the bond issue with the actual need of the funds.

Bond Submission And Approval Process

Goal:

Match the timing of the bond issue with the need for construction funds.

Notes:

1. Morgan-Keegan can arrange for short term interim financing if the time line for the project becomes critical and the timing of the VPSA bond issue does not match the required starting time of the construction schedule.
2. The zoning and site plan review process takes about as long to complete as the bond process so it does no good to start the bond process before the planning review process.
3. There are financial penalties associated with obtaining bond proceeds too early.

The VPSA bond process can be divided into two decision points:

1. Initial bond request
2. Final decision (the cost of terminating an initial bond request is about \$7,500.)

Criteria for submitting an initial bond request:

1. Land is under a contract without owner-mandated contingencies
2. The Supervisors conclude the School Board has submitted a reasonable school construction plan that meets the conditions of the Joint Resolution including site development, utilities and needed off-site costs.

Notes:

- The current Moseley contract covers the engineering and architectural costs of step #2.
 - It is expected that steps #3 and #4 will require an appropriation from the Supervisors for engineering/architectural services. (This appropriation will be an advance on the construction cost of the project and is to be paid back from the proceeds of the bond issue.) As it would be wasteful to spend money on an inappropriate site, this appropriation should only be made if the Supervisors feel there is a reasonable chance the Planning Commission will conclude that the site under contract will be deemed suitable for a school under the Comprehensive Plan.
3. A draft site plan has been submitted to the Planning Commission
 4. The Town of Berryville has agreed to allow water and sewer access to the site.
 5. The Supervisors are of the view that the Planning Commission has a reasonable chance of concluding that the special use permit will be approved and the site plan can be modified to meet all site plan requirements and comprehensive plan

Criteria for approving final bond paperwork:

1. The Planning Commission has approved the special use permit and site plan.
2. The Supervisors believe there is a reasonable chance they will approve the special use permit and site plan.

Vice Chairman Hobert moved to adopt the Bond Submission and Approval Process guidelines.

The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

There was discussion regarding a joint meeting between the Town of Berryville, the Planning Department, the Planning Commission, the School Board and the Board of Supervisors to discuss the process. Supervisor Byrd pointed out that members of school administration and the School Board have already had four meetings with Chuck Johnston, Clarke County Planning Administrator. Supervisor Weiss put forth that there still appeared to be a lack of understanding by the School Board on the complexity of the issues surrounding land acquisition and the approval process. He advised that he was willing to do whatever necessary to help provide clarity to the School Board.

Supplemental Appropriation—Millwood Sewer Project

Finance Committee recommends approval of the supplemental appropriation request of \$ 9,000 to cover miscellaneous expenses associated with the Millwood Sewer project not eligible for reimbursement through the grant/loan programs.

Vice Chairman Hobert moved to approve the supplemental appropriation to cover miscellaneous expenses associated with the Millwood Sewer project.

The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Fire Programs Fund

David Ash reviewed the request for the Fire Programs Fund for a supplemental appropriation to the General fund to recognize additional expenditure and revenue resulting from the receipt of two annual payments from the state in the same fiscal year.

Supervisor Dunning moved that be it resolved that the General Fund be amended to increase expenditure \$12,556, and to appropriate the same, and to recognize as revenue an equal amount.

The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Humane Foundation

The Finance Committee reviewed the Humane Foundation Agreement and Financials, recommends action on fund transfer.

Supervisor Dunning to approve the transfer of funds to the Clarke County Humane Foundation in the amount of \$200,000.

The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Bills And Claims

Vice Chairman Hobert reviewed the Bills and Claims for the general government for May 2004 and schools April 2004.

Vice Chairman Hobert moved to approve the Bills and Claims for the general government as presented.

The motion carried as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

Project Update

David Ash provided the monthly project update to the Board of Supervisors.

Closed Session

Supervisor Dunning moved to convene into closed session pursuant to Section §2.2.3711-A1, §2.2.3711-A3 and §2.2.3711-A7 of the Code of Virginia, as amended, to discuss personnel and real estate issues.

The motion was approved as follows:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Aye
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Aye
Supervisor Weiss	-	Aye

The members of the Board of Supervisors being assembled within the designated meeting place, with open doors and in the presence of members of the public and/or the media desiring to attend, **Supervisor Byrd moved to reconvene in open session. The motion carried as follows:**

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Absent
Supervisor Weiss	-	Aye

Supervisor Byrd moved to execute the following Certification of Closed Session:

CERTIFICATION OF CLOSED SESSION

WHEREAS, the Board of Supervisors of the County of Clarke, Virginia, has convened a closed meeting on the date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3700 of the Code of Virginia requires a certification by the Board of Supervisors of the County of Clarke, Virginia that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE BE IT RESOLVED, that the Board of Supervisors of the County of Clarke, Virginia, hereby certifies that, to the best of each members knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board of Supervisors of the County of Clarke, Virginia.

The motion was approved by the following roll-call vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Absent
Supervisor Weiss	-	Aye

Subsequent to discussion conducted in Closed Session, Supervisor Byrd moved to accept the real estate sales contract dated April 23, 2004 offered by John M. and Maria T. Zambanini and to authorize the Chairman of the Board of Supervisors to execute deeds, easements and other documents necessary to the transaction.

The motion was approved by the following vote:

Chairman Staelin	-	Aye
Vice Chairman Hobert	-	Absent
Supervisor Byrd	-	Aye
Supervisor Dunning	-	Absent
Supervisor Weiss	-	Aye

Summary Of Required Action

<u>Item</u>	<u>Description</u>	<u>Responsibility</u>
1.	Provide notification of approval of 29 th Annual Virginia Wine Festival	David Ash
2.	Check file for special requirements for Watermelon Park.	David Ash
3.	Advertise public hearings.	David Ash
4.	Chairman Staelin instructed staff to modify the ordinance for the Board of Well and Septic Appeals variances.	Chuck Johnston
5.	Create database of mother-in-law cottages/tenant houses.	Chuck Johnston
6.	Add notice that Special Entertainment Permits are subject to the public hearing process adding an additional month for publication, public comment and Board action.	David Ash
7.	Provide number of teachers who re-signed for school year 2004-2005.	Ed Breslauer/ School Administration

Adjournment:

There being no further business, Chairman Staelin adjourned the meeting at 3:15 pm.

Next Meeting Date:

The next Board of Supervisors meeting is set for July 20, 2004, at 9:00 am in the Board of Supervisor's Meeting Room, Second Floor of the Circuit Courthouse, 102 N. Church Street, Berryville, Virginia.

ATTEST: June 15, 2004

John Staelin, Chairman

David L. Ash, County Administrator